



Cedarbrook Walk — Camarillo



Mission Walk – Old Town Camarillo

**County of Ventura
Inclusionary Housing Policy Report**

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Resource Management Agency

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1. Summary

Ventura County faces a severe housing crunch. Exacerbated by rapidly increasing rental rates and home prices as well as job growth in Ventura, Santa Barbara and western Los Angeles counties, the demand for affordable housing continues to swell. As wages remain stable and the cost of purchasing a home countywide is still out of reach for the majority of County residents, the short supply of rental and ownership housing affordable to average wage earners threatens to impact the County's economic base.

In response, dozens of stakeholders representing the diverse interests of the business community, nonprofit organizations, housing advocates, local government, and the development community have come together in a variety of countywide forums to seek solutions. At these venues, one often highly touted method to address the short supply of affordable housing is the adoption of an Inclusionary Housing policy by local governments. This typically takes the form of an ordinance requiring that new residential developers earmark a specified percentage of their housing units for purchase or rent by low and/or moderate income households.

The Ventura County Board of Supervisors has approved several residential General Plan Amendment Screening applications in recent years with varying requests or requirements for lower-income housing. These requirements have been on an ad hoc basis and have not followed any consistent or universally applied policy criteria.

The intent of this report is to explore the potential for adoption of an Inclusionary Housing policy or ordinance in Ventura County. This report provides background on Inclusionary Housing as a planning tool, details the advantages and potential challenges of an Inclusionary Housing policy, reports on implementation in other jurisdictions, expands in rough detail upon the key considerations in designing and implementing such a policy, touches upon legal and legislative issues and, finally, addresses the policy implications for the Board of Supervisors.

2. Background

2.1 What is Inclusionary Housing?

Inclusionary housing is a mandatory requirement or voluntary concession for a minimum percentage of lower and/or moderate income housing units to be included in new residential development. It links construction of affordable housing to construction of market rate housing with the result that new residential areas include diverse housing options. There is no statewide standard for Inclusionary Housing, leaving jurisdictions free to determine whether Inclusionary Housing policies are appropriate and to design them within the constraints of their unique local context. When adopted, these requirements are typically incorporated into the zoning code in the form of an ordinance and/or integrated as policies in a jurisdictions' General Plan.

The first Inclusionary Housing programs in California were adopted by the cities of Petaluma and Palo Alto in 1973. Since that time, local governments have increasingly turned to Inclusionary Housing as a tool for increasing the stock of affordable rental and for-sale housing in their communities. Dozens of ordinances were codified during the housing crises in the early 1980s and 1990s, and dozens more were codified in the last five years. While not uncontroversial, in many cases Inclusionary Housing policies were initiated to satisfy State Housing Element requirements and to avoid potential legal challenges by housing advocate groups.

According to a report published jointly by the California Coalition for Rural Housing and the Non-Profit Housing Association of Northern California, as of June 2006 more than 30 percent of all jurisdictions statewide (170 California cities and counties), reported having IH policies to help ensure construction of affordable housing. Not surprisingly, the primary concentration of cities and counties with adopted Inclusionary Housing ordinances remains centered in metropolitan regions with escalating housing costs, such as the Bay Area and coastal California.

The specific requirements of Inclusionary Housing policies vary from one jurisdiction to the next. However, most Inclusionary Housing ordinances include the following elements:

- targeted income categories for housing;
- the inclusionary percentage required for varying types of residential development;
- developer incentives;
- the length of affordability for the project; and
- alternatives to on-site construction, such as payment of in lieu fees.

As a rule, the precise details are hammered out by policymakers as they seek to balance developer needs with housing advocates' concerns and community needs.

2.2 Land Inventory: Is More Affordable Housing Needed in Ventura County?

In October 2006, the Board of Supervisors received the General Plan 2006 Annual Report, which detailed the County's progress in meeting its share of the regional housing needs as determined by the Southern California Association of Governments (SCAG) Regional Housing Needs Assessment (RHNA) for the period January 1998 through June 2005.

The following table shows the County's housing need (i.e., RHNA number of dwellings needed for each income category) versus the number of dwelling units actually completed in unincorporated areas of the County from January 1, 1998, to June 30, 2005 (i.e., SCAG's RHNA seven and one half year cycle).

**Figure 1
Regional Housing Needs Assessment – Housing Attainment by
Income Category**

Income Category	Dwellings Needed 1/98 - 6/05	Dwellings Provided 1/98 - 6/05	% Of Needs Being Met
Upper	690	654	95%
Moderate	334	412	123%
Low	250	503	201%
Very Low	404	313	77%
Totals	1,678	1,882	112%

The Annual Report documents that the County exceeded targets set for housing in the low and moderate income categories, but did not meet the very low or upper-income category targets. Not meeting the target for upper income housing is not considered a problem because households in this income category have the option of purchasing a home available to the moderate or lower-income households. Not meeting the very-low-income category targets, however, is a significant problem that may only get worse over time.

The County is currently working on its required update of the Housing Element for the planning period from 2006 – 2014. The Regional Housing Needs Allocation Plan for the unincorporated portion of the County for this planning period appears below in Figure 2.

**Figure 2
Housing Need for Unincorporated Ventura County**

	Lower Income (<80% of median)			Moderate Income (80-120% of median)	Upper Income (>120% of median)	Total
	Extremely-Low Income (<30% of median)	Very-Low Income (30-50% of median)	Low Income (50-80% of median)			
2006-2014 Housing Need	152	153	250	291	558	1404
2006 Housing Completions	11	37	98	251	127	524
Remaining Housing Need	141	116	152	40	431	880

Subtracting the 2006 building completions from the above 2006-2014 housing need, results in the housing need for the remainder of the housing element period as reflected on the third line of Figure 2.

Despite this progress in dwelling unit completions, Figure 3 shows that the unincorporated County's potential land inventory for affordable housing for low-income households is very limited, and in fact is insufficient to meet the identified need. Contributing factors include: 1) the State's purchase of Ahmanson Ranch in 2003, which resulted in the substantial loss of potential housing, especially affordable housing; 2) development constraints in some unincorporated

areas; and 3) build-out at CSUCI, where a significant percentage of lower and moderate income units have been constructed in recent years.

Figure 3
Land Suitable for Lower-Income Dwelling Units

Land Use Designation	Zoning	Type of Dwellings	Description	Potential DU (1/2007-6/2014)
Urban/Existing Community, Rural, Open Space & Agricultural:	All residential zones, RA, OS & AE	Second DU	109 units completed 6/2003 to 1/2007 ¹ (31 units per year)	233
Agricultural, Open Space & Rural:	AE, OS, RA	Farmworker/Animal Caretaker DU	38 units completed 7/1999 to 1/2007 (6 units per year)	44
Urban:	RPD-6U - 12U	Multi-family Attached	CA Redevelopment Law inclusionary requirement --Piru Redevelopment Area ²	0 - 6 ³
	RPD-6U - 12U	Multi-family Attached	Board imposed Inclusionary requirement -- Piru Expansion Area	0 - 37 ⁴
State/Federal Facility:	Exempt	Multi-family Attached	CSUCI Site Authority (Apts)	30
Total				307-350

Public facility constraints in some unincorporated areas play a role by restricting future residential development. In the Ojai Valley for example, where approximately 40 percent of the County's multifamily housing land inventory exists, (outside of CSUCI), traffic policies prohibit new residential development and there are limitations on how many new dwelling units receive water service. Similarly, there are water supply constraints in the Santa Monica Mountains and sewage system constraints in the Santa Rosa Valley.

As shown in Figure 3, the aggregate potential for lower income housing in unincorporated areas currently amounts to between 307-350 dwelling units, including farmworker units and second dwelling units. By comparison, the lower-income housing need for the unincorporated area of the County for the current housing cycle (2006-2014) is 409 dwelling units.

¹ County staff reviewed building completion data back to June 6, 2003, the effective date of the zoning ordinance amendment allowing ministerial second dwelling units.

² California Redevelopment Law (CRL) imposes inclusionary housing requirements, which are being implemented by the Piru RDA at the rate of 6 percent very low income and 4.5 percent low income, with resale/rent control provisions.

³ Piru RDA has a "surplus" of 23 lower-income units and is considering counting the projects within the Piru Expansion Area and/or the CEDC Piru Farmworker Housing Complex to meet its inclusionary housing requirement under CRL. If so, no new units would be provided for lower-income households within the RDA.

⁴ Piru RDA staff is recommending that projects in the Piru Expansion Area pay in-lieu fees to the RDA rather than provide the income-targeted units. The in-lieu fees would help augment loans and grants to existing homeowners for rehabilitation and/or help finance the CEDC Piru Farmworker Housing Complex. If so, no new units for lower-income households would be built in the Piru Expansion Area.

2.3 The Growing Disparity between Wages and Home Prices

In 2006, the median household income for a family of four in Ventura County was \$79,500. The University of California, Santa Barbara Economic Forecast program reported that the median priced home in Ventura County in 2006 was \$695,089. This figure includes both new and resale homes and condominiums. At this price, and using an interest rate of 6 percent on a 30-year fixed rate mortgage with a 20 percent down payment, monthly mortgage payments would total approximately \$3,334. To keep monthly payments at 30 percent of gross income would require an annual household income of \$133,000. Based on these figures, only 12 percent of households in Ventura County could afford to purchase the median-priced home in 2006.

Although housing prices have fallen significantly in the last 24 months, the disparity between wages and housing prices in Ventura County is still significant and housing prices are still beyond the means of many existing and would-be residents. It is no longer simply the low wage earners and service workers who require affordable housing, but working professionals and single wage earner families that struggle to rent and purchase homes. This reality is often overlooked by existing residents who are longtime homeowners in a community.

Indeed, in recent years family income thresholds for affordable housing eligibility shifted appreciably. The income categories used by HUD for public subsidy purposes in Ventura County are shown in Figure 4 (assumes a household size of four persons):

Figure 4
HUD 2006 Affordability Categories

Income Category	Percent of Median Household Income	Annual Household Income
Upper Income	>120%	> \$95,400
Moderate Income	80 - 120%	\$63,600 - \$95,400
Low Income	50 - 80%	\$39,750 - \$63,600
Very Low Income	30 - 50%	\$23,850 - \$39,750
Extremely Low Income	<30%	< \$23,850

Source: Ventura County Area Housing Authority (January 2006); Assumes a four-person household and a median household income of \$79,500.

Low income households now include many teachers, police officers, entry-level nurses, and social workers. As the mean annual wage data in Figure 5 further illustrates, the median priced home in Ventura County is no longer within reach for much of the County's workforce, particularly those who may be the sole wage earners for their families.

Figure 5
2006 Ventura County Mean Wages by Occupation

Occupation	Mean Annual Wage ⁵
Optometrist	\$81,721
Computer Programmer	\$74,338
Chiropractor	\$83,256
Registered Nurse	\$65,504
Technical Writer	\$64,884
Physical Therapist	\$69,608
Fire Fighter	\$56,188
Accountant	\$58,188
Electrician	\$55,777
Elementary School Teacher	\$54,231
Graphic Designer	\$47,943
Social Worker	\$46,684
Administrative Assistant	\$42,026
Janitor	\$25,059
Child Care Worker	\$22,723

Source: California Employment Development Department (EDD) Occupational Employment Statistics Survey Results (2006).

Where home purchase is out of reach, it's common for young families, seniors, and average-income wage earners to rely on rental housing to provide affordable housing. However, the supply of rental housing (single-family detached and multifamily attached) in Ventura County remains tight; barring significant economic shifts in the local housing market, the future rental housing outlook appears equally bleak.

If the Bay Area experience is any indication, without countywide changes to housing policies Ventura County is likely to face a shortage of workers and difficulty recruiting new employees, more traffic congestion and longer commutes as workers drive longer distances to work, increased air pollution, and strained infrastructure.

Additional impacts that may arise from limited housing options are qualitative in nature, but nonetheless significant. These include the impacts on quality of life when residents work long distances from the communities they live in (e.g., less time to participate in civic activities and a missing sense of connection to their communities, children remaining in daycare for extended hours, and a shortage of critical safety workers during potential disasters). This will be coupled with the loss of young families and educated entry-level professionals and technical workers to other areas of the state and country, primarily because they can no longer hope to participate in the first-time homebuyer market.

⁵ Mean wage is defined by California Employment Development Department as the estimated total wages for an occupation divided by its weighted survey employment.

2.4 Existing Ventura County Housing Policies

Like many other communities, Ventura County has initiated a range of affordable housing programs and incentives to incrementally or indirectly increase the supply of affordable housing, primarily through federal subsidy programs, loans, and other mechanisms. These programs are detailed in the Consolidated Annual Plan published each fiscal year by the County Executive Office. In addition, zoning code changes have been approved in recent years to encourage the production of farmworker housing and second dwelling units. Amendments to the Non-Coastal Zoning Ordinance were approved in 2003 to increase the potential number of farmworker/ caretaker dwellings that could be approved ministerially.

Likewise, in 2003 amendments were made to the Non-Coastal Zoning Ordinance to permit second dwelling units by right in most areas of the county. Perhaps partially in response to rising home prices and partially due to the relaxing of the development standards, the County has seen a marked increase in the number of permits issued for second dwelling units (although it remains to be seen whether this increase will be sustained). These units typically fill a defined need in the community by providing housing affordable to lower income individuals (college students, ailing parents, etc.).

However, there are currently no specified objectives or policies with respect to Inclusionary Housing in the unincorporated area of Ventura County. Such policies would be consistent with Goal 3.3.1(5) of the *Goals, Policies, and Programs* section of the General Plan, which seeks to “increase housing opportunities for households of all income levels, with special emphasis on lower-income households, the elderly, the mentally ill, single heads of household, large families, farmworkers, handicapped, and homeless.” Likewise, Goal 3.3.1(6) is consistent with an Inclusionary Housing policy because it attempts to promote a diversity of housing types, tenures, and prices through such goals as “striving for an equitable distribution of housing types and prices throughout the unincorporated County.” Housing Opportunity and Diversity Programs listed in the General Plan address residential developer incentives by supporting implementation of Article 16 of the Non-Coastal Zoning Ordinance. Although in need of an update to remain consistent with State law, Article 16 establishes standards, density bonuses and other incentives to encourage the construction of senior and lower income housing.

Although the County has no formal policy, the Board has set a de facto inclusionary housing policy for legislative approvals by requiring an affordable component in new residential projects. All recent General Plan Amendment (GPA) screenings for urban residential projects have included some form of inclusionary housing, provided either voluntarily by the developer or required as a condition of approval. Figure 6 shows the various GPA screenings and their affordable housing components.

Figure 6
GPA Screening Applications with Affordable Housing Components

GPA Screening Project	Location	Date of Board Screening	Number of Potential Dwelling Units	Affordable Housing Component
John Rieder	Piru	July 2001	60 multi-family units	Must be consistent with CA Redevelopment Law (6% of the units be set aside for very-low income and 9% of the units be set aside for moderate and low-income households).
Don Jenson, (formerly Dana Levy)	Piru	February 2003	120 single-family units	By Board direction, project should be consistent with CA Redevelopment Law (6% of the units be set aside for very-low income and 9% of the units be set aside for moderate and low-income households).
James Finch	Piru	July 2004	145 single family and 65 apartment units	By Board direction, project should be consistent with CA Redevelopment Law (6% of the units be set aside for very-low income and 9% of the units be set aside for moderate and low-income households).
Rockwell Scientific	Lynn Ranch/ Thousand Oaks Area	July 2003	Approximately 23 single-family units	The Board conditioned the project to provide a “variety of housing densities to meet the needs of diverse family income levels,” as described in the Thousand Oaks Area Plan.
Dennis Nickerson	Channel Islands Harbor Area	July 2003	10-16 apartment units	Developer proposed the project with 25% of units affordable to lower-income households.
Colton Lee Communities	Santa Susana Knolls	July 2004	Original submittal: 150-250 apt. units; Revised submittal: 100 modular units	Developer originally proposed the project with 20% of apartment units affordable to lower-income households; resubmitted with 10% set-aside for low-income households.

If developed and adopted, an Inclusionary Housing policy would provide a consistent framework for applying affordability requirements to these projects and those that follow. Ideally, such a policy would define “affordable” by identifying targeted income groups and set aside rates for both rental and for-sale housing.

3. The Pros and Cons of Inclusionary Housing

3.1 Competing Interests

Given the controversial nature of Inclusionary Housing and the trade-offs inherent in designing such policies, they often spark considerable debate. Ventura County is likely to be no different.

Potential supporters of Inclusionary Housing in Ventura County include affordable housing advocacy groups, nonprofit housing organizations and developers, low-income workers hurt by rising rents, residents of all income levels who recognize the need for additional housing, legal aid foundations, environmental groups, employers who have trouble recruiting qualified workers due to housing prices, and County agencies that provide housing assistance services. Their arguments in favor of Inclusionary Housing will likely center on social equity and the negative quality of life impacts that result from inadequate housing— e.g., longer commute times, overcrowded housing, increases in air pollution, traffic congestion, etc. Their basic argument is that escalating housing prices deny housing to residents who contribute significantly to the community's quality of life. The result is that even professionals like teachers, accountants, and fire fighters find home ownership out of reach and become difficult to retain and recruit to Ventura County. For service workers and low-income families the situation is grimmer, with rising rents forcing them to either share housing or commute long distances to work.

Opponents to Inclusionary Housing in Ventura County may include the Building Industry Association (BIA), residential developers, local Chambers of Commerce, and existing residents who harbor fears about lowered property values and the perceived impact of affordable housing on their communities. Critics will assert that a requirement for lower income units impedes the production of housing and increases the price of market rate units in the same development. They will emphasize that Inclusionary Housing imposes an obligation on the homebuilding industry to meet a community need for affordable housing that should be a shared public responsibility. A follow-up criticism is that commercial and industrial employment generating uses have contributed to the dearth of housing for lower income residents, but these uses are not faced with a similar obligation to provide housing.

3.2 Potential Challenges

The BIA is often, but not always, pitted against housing advocates on the issue of Inclusionary Housing. In many communities the BIA lobbies policymakers for increased incentives and flexibility, while housing advocates lobby for tighter controls and higher in-lieu fees. Some jurisdictions, like the County of Santa Barbara, have successfully fashioned a compromise between the two groups by allowing increased densities that match the number of inclusionary units. This satisfied both the need for affordable units and the need for a reasonable profit by the developer.

Yet Inclusionary Housing remains a complex issue and there are valid arguments raised by opponents. For example, critics emphasize that buyers of inclusionary units cannot take advantage of one key aspect of homeownership— increased home equity. In California it is still assumed that this equity will make up a significant portion of household wealth. Nonetheless, in order to maintain affordability, deed restrictions are typically placed on for-sale units to limit their resale value, thus, limiting the homeowner's share of the equity gain. Opponents will also point out that oversight of these deed restrictions is time intensive and in some cities has been largely ignored, with the resulting loss of affordable units and/or costly litigation proceedings.

Another common argument is that a voluntary policy to include affordable units would function better than a mandatory requirement. A follow-up contention is that Inclusionary Housing relies on a strong residential real estate market to create below market rate units. Implementation of an Inclusionary Housing policy in a weaker real estate market may discourage residential development or artificially inflate the cost of market rate homes. Consequently, it is not an effective tool in every locality. Another concern often raised by existing residents of a community is that where density bonuses are provided with Inclusionary Housing, an undesirable “massing” of development occurs.⁶ These criticisms of Inclusionary Housing are all warranted and substantive.

More recently, Benjamin Powell and Edward Stringham, economists at San Jose State University, espoused the viewpoint that price control policies like Inclusionary Housing have a dampening effect on overall housing production. Powell and Stringham studied 13 cities in southern California with Inclusionary Housing ordinances and found that housing production “drastically decreased the year after cities adopt inclusionary zoning”. They argue that the production of 770 inclusionary housing units in southern California in the seven years following adoption of inclusionary zoning resulted in the production of 17,000 fewer market rate units. Powell and Stringham further surmise that Inclusionary Housing ordinances raised the price of market rate homes by \$33,000-\$66,000/unit in Southern California. They support these conclusions with several papers published in 2004 by the libertarian Reason Public Policy Institute and point to the fact that inclusionary housing is not the “silver bullet” needed to meet regional housing needs.

Planning staff evaluated the methodology used by Powell and Stringham and believes that flawed assumptions biased their study and resulted in potentially false conclusions. For example, in calculating the cost of Inclusionary Housing, the authors assume that developers do not pay any of the cost of the additional units, but rather pass this extra cost on to the landowners and the buyers of market rate units. However, it is generally agreed that some of the cost of inclusionary units is shouldered by the developer and that the reason the developer is willing to make economic concessions is because, even with inclusionary requirements, construction of the project is still sufficiently profitable. Powell and Stringham further declare that housing construction fell dramatically in the year following adoption of Inclusionary Housing ordinances without factoring in the reality in most jurisdictions that to process a typical residential subdivision takes a minimum of 2-3 years and that typically in the last 1-2 years prior to adoption of such a policy developers rush to receive approval for residential projects. Thus, the true impact of a new Inclusionary Housing policy would not be obvious for at least 3-5 years. Likewise, in the study, which compared seven years of housing production after adoption of an ordinance, the authors failed to demonstrate that the reduction of 17,000 housing units (a questionable number to begin with) was not due to economic recession, tightening land use controls in the targeted cities, lack of vacant land, or other related reasons.

Ultimately, the research of Powell and Stringham lacks credibility because it does not include a comparative study between cities with and without an Inclusionary Housing policy. Instead, the authors self-selected cities with Inclusionary Housing policies to create their sample data. Then, in calculating the additional cost of Inclusionary Housing, Powell and Stringham assumed that there were no incentives or subsidies available to the developer, that the inclusionary units were identical in size to the market rate units and that there were no alternatives to construction of the affordable units through in-lieu fees, etc. This is because the rigidity of their economic model did not factor in day-to-day negotiations that occur as policymakers balance the housing needs of the community with developers’ needs. However, this does not mean that there are not some conclusions in the report that ring true. For example, the observation that Inclusionary Housing

⁶ *Inclusionary Zoning*. Innovative Housing Institute (1999).

policies have only succeeded in providing a small percentage of the affordable housing needed in California is quite true. Still, Planning Division staff questions the value of the Reason Policy Institute studies for policymakers when they do not reflect the experience of most cities and counties who have implemented Inclusionary Housing.

3.3 Potential Advantages

Advocates of Inclusionary Housing argue that as a regulatory tool, Inclusionary Housing allows affordable housing to be integrated with market rate units and distributed throughout the jurisdiction rather than constructed in one location. This in turn creates economically diverse communities and reduces the ability of affordable housing opponents to challenge the construction of housing units for low and moderate-income residents on the basis of the creation of “poor neighborhoods”. Integration of the housing units with market rate projects also avoids the problems of deferred maintenance and stigmatization that can occur. Indeed, inclusionary affordable units are more likely to be part of well-designed projects compatible with the existing community. This quality design serves to promote community acceptance of future affordable housing. In addition, Inclusionary Housing policies benefit local government in that the production of affordable housing units does not require significant expenditure of public funds, yet helps to meet state mandated housing goals. Historically, there has been no equivalent to this mechanism that enables a community to retain its character while accommodating affordable housing.⁷

To respond in part to the studies completed by Powell and Stringham, supporters of Inclusionary Housing are likely to point out that many jurisdictions adopt Inclusionary Housing policies at a point where they are running out of land and build-out is quickly approaching; thus, it’s not a surprise that fewer units are built after adoption of an Inclusionary Housing ordinance than in the time period beforehand. Housing advocates would also point out that successful inclusionary housing policies have been implemented in strong housing markets, presumably because inflation in the housing market yields a significantly greater profit for developers and land owners, making it economically feasible to integrate affordable units with market rate housing. In jurisdictions where compliance is voluntary, very few, if any, inclusionary units have been produced. Yet, rather than harm the developer’s bottom line, well executed Inclusionary Housing policies can function to create a fair playing field and provide clear direction to developers who are designing new residential projects.

Environmental groups often highlight the negative quality of life impacts that result from insufficient affordable housing, pointing to increased commute times and the effects on air quality as reasons to support Inclusionary Housing. Housing advocates and local businesses typically argue that Inclusionary Housing requirements help bridge the gap for professional workers (e.g., mid-level managers, nurses, and sheriff’s deputies) who can no longer keep pace with the high cost of housing. Provision of more housing would allow some of these critical wage earners to remain in the county and for recruitment of such workers to the county. Most new residential real estate investment in Ventura County, especially in the cities, is geared toward construction of high end homes for those in the upper-income range. At the same time, traditional subsidies from CDBG, HOME, and other federal assistance programs primarily target lower income groups. However, the majority of the Ventura County workforce falls somewhere between these two extremes. Inclusionary housing policies are one method of increasing the supply of housing for this moderate income group.

⁷ *Inclusionary Zoning: A Viable Solution to the Affordable Housing Crisis?* Dr. Robert W. Burchell and Catherine C. Galley. (October 2000) p. 6.

Indeed, the City of Santa Barbara (where the mismatch between housing prices and wages is even more dramatic) recently took the unusual tactic of revising their Inclusionary Housing ordinance to target *only* moderate and above-moderate income households for ownership housing, or those earning between \$77,640 and \$129,400 annually. Residential projects with for-sale units are now required to set aside 15 percent of their units for households in these two income categories. This policy was viewed as necessary in order to maintain the quality of life expected in Santa Barbara. Similarly, the County of Santa Barbara is in the process of adding a “workforce housing” category to their income categories, with housing targeted at households earning between \$78,287 and \$129,400 per year (121-200% of median income).

Lastly, in response to criticisms such as Powell and Stringham’s complaint that it is not a panacea, housing advocates contend that Inclusionary Housing policies are not intended to provide a region’s entire supply of affordable housing, but rather to work in tandem with more comprehensive housing programs and policies to address the community’s need for housing.

4. Legal Review

Because they represent local governments’ use of zoning power to protect the general welfare, Inclusionary Housing policies can often stir debate over the legal grounds for their adoption. In California there are no laws that expressly authorize, require or otherwise place limits on the adoption of Inclusionary Housing with the exception of redevelopment areas and areas impacted by the Coastal Act.⁸

Inclusionary policies are specified by the California Health and Safety Code (§ 33413(b)) as applied to community redevelopment law. This statute requires development in local redevelopment areas to set aside 30 percent of new residential development to low and moderate income families when developed by the redevelopment agency and to set aside 15 percent when the housing is constructed by a non-agency entity, with 40 percent of the 15 percent targeted to very low-income households.

The Piru Redevelopment Agency is responsible for implementing this statute in the Piru Redevelopment Area, and has collected approximately \$300,000 for the Housing Set Aside Fund since its inception in 1995. Likewise, the California Government Code (§ 65590(d)) requires new housing developed in the Coastal Zone to “provide housing units for persons and families of low or moderate income, where feasible,” though this requirement is typically not economically feasible for the type of small, infill development seen in the unincorporated County.⁹ Nevertheless, these state laws legitimize Inclusionary Housing as a tool for achieving the public good provided by adequate affordable housing. And, in fact, under California Housing Element law (§ 65583(c)(1)(a)), all jurisdictions are required to adopt a Housing Element that “identifies adequate sites” for housing needs “at all income levels” in the community.

In the past, developers and builders raised the question of whether Inclusionary Housing requirements were an unlawful “taking.” *Homebuilders of Northern CA vs. City of Napa (2001)* finally addressed this by establishing Inclusionary Housing practices as constitutionally valid. In this case, the court determined that Napa’s Inclusionary Housing ordinance “substantially advanced a legitimate state interest” and that the required 10 percent set aside for affordable

⁸ *Inclusionary Zoning: The California Experience*. National Housing Conference. NHC Affordably Housing Policy Review. Vol. 3, Issue 1. (February 2004). p 6.

⁹ *California Inclusionary Reader*. Institute for Local Self Government. (2003) p. 103.

housing was constitutional. It did not constitute a “taking” due to the availability of a waiver or reduction in the requirements for hardship reasons. The ordinance also provided benefits to the developer through fee deferrals, expedited permit processing, and density bonuses.

The City of Napa case demonstrated that in order to withstand legal challenge an Inclusionary Housing ordinance should include the following elements:

1. Address a jurisdictions’ need for housing through findings that demonstrate a correlation between this need and the inclusionary requirements;
2. Establish clear standards and a reasonable relationship between the alternatives and the purpose of the ordinance;
3. Include procedures for claiming a reduction or waiver and the standards for determining the extent of a reduction, if necessary;
4. Provide incentives and regulatory concessions over and above those required by state law; and
5. Incorporate provisions allowing for administrative relief (i.e., the ability to waive a developer’s obligation if there is hardship).

Legal precedent suggests that adoption and implementation of a formal ordinance provides better protection from legal challenge than a policy that is applied on a case-by-case basis to individual projects. In the case of Inclusionary Housing, some jurisdictions have imposed inclusionary requirements based on general policy statements in their General Plan Housing Element. However, this type of general policy can lead to the kind of individualized ad hoc application that leaves the County susceptible to legal challenge. Local agencies are on firmer ground when conditions of development are imposed legislatively by ordinance.¹⁰ Ideally, the General Plan would contain a policy statement on the provision of affordable housing through Inclusionary Housing that is then supported by the local zoning ordinance.

5. Pertinent Legislation

A number of State Assembly and Senate bills dealing with housing were signed into law by Governor Schwarzenegger in September 2004. Among others, Density Bonus law, Regional Housing Needs Assessment (RHNA) reform, and Housing Element reform were tackled, while proposed changes to second dwelling unit regulations were vetoed.¹¹

5.1 Density Bonus Law

The Density Bonus law encourages low-income housing in exchange for developer incentives and construction at increased densities. The 2004 revisions to this law expanded the use of incentives for developers and increased the financial burden upon local government.

Prior to this legislative revision, when a developer proposed a residential project with lower or moderate income units, senior housing units, or a child care facility (and met additional specified criteria), the local jurisdiction was required to provide the developer with a density bonus or

¹⁰ *California Inclusionary Reader*. Institute for Local Self Government. (2003) p. 115.

¹¹ These summaries are taken in part from the legislative analyses provided on the California State Assembly website at <<www.assembly.ca.gov/acs/acsframeset2text.htm>>.

other incentives, unless a finding was made that these concessions were not needed to achieve affordability

The 2004 revisions allowed a 20 percent density bonus for providing 10 percent low income housing or 5 percent very low income or senior housing. Furthermore, a 5 percent density bonus is now awarded for the provision of 10 percent moderate income housing in a project. The density bonus and associated concessions increase incrementally as the percentage of affordable units in a project increases, up to a maximum of 35 percent above existing zoning. At the same time the number of concessions a jurisdiction is required to grant (e.g. relaxing development or design standards, waiver of permit fees, etc.) was raised from one to as many as three.

In addition, the law created a new land donation density bonus of up to 35 percent for developers who donate land for affordable housing. Though local government may still grant density bonuses above or below those required, the jurisdiction must prove that the density bonus is unnecessary. Finally, the law requires jurisdictions to determine and enforce resale and price controls for designated affordable housing, even when there is no public subsidy provided to the project.

The County's Non-Coastal Zoning Ordinance (Article 16), last revised in 1994, covers density bonus incentives for low income and senior housing development. It has been inconsistent with state law for some time. To date, despite the 2004 revisions to law, there have been no applicants requesting a density bonus for residential projects that would have qualified for one.

State Density Bonus law does not preempt Inclusionary Housing ordinances adopted by local jurisdictions. Rather, the density bonus and concessions mandated by the State may be complimentary to policies that require developers to incorporate Inclusionary Housing into their projects. However, the Density Bonus law applies to all discretionary approvals, not simply to legislative approvals within a jurisdiction.

5.2 Housing Element Reform

These 2004 Housing Element reforms enacted changes to existing laws related to affordable housing development, Housing Element law, Density Bonus law and anti-NIMBY statutes. The intent of the reforms was to specifically identify adequately zoned sites for affordable housing and remove common pitfalls to affordable housing that can occur during the entitlement process— e.g., excessive parking requirements, arbitrary project denials, and neighborhood opposition. It did this by reducing local control of land use policies.

The following revisions were made to Housing Element law:

1. Set requirements for the required Housing Element land inventory;
2. Established a “rule of thumb” for determining densities that will accommodate lower income housing;
3. Clarified that a jurisdictions’ Housing Element must commit to rezone sites to make up the difference between the assigned housing need and the projected housing inventory;
4. Stated that where the inventory of sites does not identify adequate sites to accommodate the need for housing in all income groups and for farmworker housing, sufficient sites shall be identified where these housing types are allowed by right;
5. Redefined “use by right” to mean that a project shall not require discretionary review or approval that constitutes a project for the purposes of CEQA;

6. Made changes that allow newly or not-yet vacated units that will be rehabilitated to count toward meeting a jurisdictions' RHNA obligation;
7. Expanded the relocation assistance available to persons displaced by sites identified for substantial rehabilitation;
8. Likewise, zoning inconsistency cannot be used as a reason to deny or condition a project if the inconsistency results from the jurisdictions' failure to conform zoning to General Plan land use designations;

The current draft of the County's Housing Element for the 2006-2014 planning period embodies these revisions, (e.g. allowing substandard parcels for increased farmworker housing, ministerial approval of multi-family projects with densities of at least 20 units per acre to make up any inventory deficit of lower-income dwelling units.)

6. Implementation in Other Jurisdictions

6.1 General Trends

The Non-Profit Housing Association of Northern California released a report in 2007 entitled, *Affordable by Choice: Trends in California Inclusionary Housing Programs*. The report summarized research conducted in 2006 to determine the growth of inclusionary housing programs statewide and provide information about the types of housing that are being produced. Their key findings include the following:

- Nearly one-third of jurisdictions in California now have inclusionary housing programs.
- Most inclusionary housing is integrated within market-rate developments.
- Almost 75 percent of the housing produced through inclusionary housing programs is affordable to low-income households.
- Joint ventures between market-rate developers and affordable housing developers are more likely to serve lower-income households.

Counties with inclusionary housing policies include, but are not limited to Monterey, Contra Costa, San Mateo, Napa, Yolo, Santa Barbara, Santa Cruz, Nevada, San Francisco, San Luis Obispo, San Benito, and San Diego. California jurisdictions have generally implemented inclusionary requirements in one of three ways:

- 1) Amendment of the Housing Element and adoption of an Inclusionary Housing ordinance;
- 2) Amendment of the Housing Element with project-by-project implementation; or
- 3) A general statement of housing policy or program with project-by-project implementation.

Without a state standardization of Inclusionary Housing, there are myriad variations in the design of these requirements. As summarized in the Background section of this report, key considerations of Inclusionary Housing programs include: the appropriate percentage or "set aside" to be required; income categories to be targeted; alternatives to construction on site; length of affordability; developer incentives; and varying thresholds for project tenure and size.

6.2 Ventura County Cities

Camarillo

The City of Camarillo adopted an inclusionary housing policy in June 2006. The policy states that each residential development “shall be reviewed to consider the inclusion of affordable housing units for lower and moderate income households.” Since January 2005, 113 inclusionary housing units have been completed.

Fillmore

The City of Fillmore considered an inclusionary housing ordinance in 2003 that was not adopted. The Redevelopment Agency boundaries encompass the majority of the City. Current Redevelopment Agency mandates that 15% of new residential units remain affordable to low-income households.

Moorpark

The City of Moorpark has an adopted inclusionary housing policy in the Housing Element of their General Plan. The policy requires 10% of new residential units to be affordable to low and very-low income households with a 30-year resale restriction. In addition, the Redevelopment Agency area has a 15% requirement. Since January 2005, there have been 13 affordable units constructed and there are five additional units now in escrow.

Ojai

The City of Ojai is proposing an inclusionary housing program in their preliminary Housing Element update (March 2008). The program proposes that all new residential developments include 15% set-aside.

Oxnard

The City of Oxnard adopted an inclusionary housing ordinance in 1999 that applies to all new residential development projects with 10 or more units. There have been 106 inclusionary housing units built since 2005. The set-aside includes 10% of ownership units to low income households and 10% of multi-family rental units to very low and low income households. The City of Oxnard also maintains a housing impact mitigation fee (in-lieu fee). All payments of in-lieu fees must first be approved by City Council. The fees are \$5,000 per unit for units costing \$500,000. Units costing over \$500,000 are 10% of the sales price at \$50,000 intervals. There is a flat fee of \$4,368 per apartment unit. Thus far, \$12 million of in-lieu fees has been collected and provided to developers who have constructed 233 affordable units. The monies have also been used as “gap” financing by developers. The City’s program manager (E. Whitaker) believes “the inclusionary housing policy has had a positive impact on affordable housing. The units would not have been built without the ordinance.” He also states that he “would prefer to have the affordable units built under the ordinance than receive in-lieu fees.”

Port Hueneme

The City of Port Hueneme adopted their inclusionary housing program in the early 1990's that required a set-aside of 25% for low and moderate income households. In-lieu fees are assessed at \$26,500 per unit and are used to help fund other affordable housing programs. There have been 31 rental units created through the inclusionary housing program since 2005. The Community Development Director believes the program is positive for the City.

Santa Paula

The City of Santa Paula enacted an inclusionary housing ordinance in October 2004 that requires 15% of all dwelling units designated for low income households or 10% designated for very low income households. Developers choosing to provide off-site affordable housing must meet higher set aside rates. In-lieu fees are paid to the Affordable Housing Trust Fund and used to develop affordable housing.

Simi Valley

The City of Simi Valley does not have a mandatory inclusionary housing requirement, but administers a voluntary affordable housing program per State law through their Density Bonus Ordinance.

Thousand Oaks

The City of Thousand Oaks appointed an ad-hoc citizens committee in 2003 to study affordable housing options. The committee has developed a policy and drafted an Affordable Housing Program Ordinance that will include inclusionary housing. The ordinance will be applicable to for-sale single family and townhouse/condominium developments with six or more units and require that 10% of the units would be affordable to a moderate-income household. The inclusionary housing would not apply to rentals. In-lieu fees will be acceptable but have not been established. The ordinance will be presented to City Council by summer of 2008.

Ventura

The City of Ventura City Council approved an inclusionary housing ordinance in 2004. Since 2005, 93 affordable units have been built consisting of 24 units of very low, 36 units of low income and 33 units for moderate income households.

7. Implementation in Unincorporated Ventura County

If the Board of Supervisors agrees to pursue consideration of an Inclusionary Housing policy or ordinance, a range of different options would be explored and potential policies submitted to the Board for review and comment. Several of these program options and features are briefly described below.

7.1 Program Features

Most Inclusionary Housing ordinances in California contain the following elements:

- 1) A requirement that 10-30 percent of the residential units be affordable to specific income categories (multifamily rentals are typically targeted to low or very-low income households and for-sale units targeted to moderate income households);
- 2) Income eligibility criteria (the basis for defining the specified households to be targeted);
- 3) Pricing criteria for affordable units;
- 4) Length of affordability (California Redevelopment law requires no less than 55 years in redevelopment areas for rental units and 45 years for owner-occupied units; most cities have opted for a 30-99 year timeframe);
- 5) Resale restrictions for affordable units (this requires on-going administration as units are refinanced or sold or rented to new occupants);
- 6) Provision of in-lieu fees for smaller projects or fractions of projects or land dedication by the developer (the mean in-lieu fee in a 2003 statewide survey was \$107,598 per affordable unit; if fees are set too low then actual construction of affordable units is less likely to occur);
- 7) Developer incentives (the most common are density bonuses, fast track processing, and a reduction in development standards);
- 8) Eligibility for exceptions or alternatives to on-site construction; and
- 9) A system for enforcing and monitoring compliance (some jurisdictions employ full-time staff, others contract with a local housing authority and still others leave compliance up to the individual developer).

To provide direction on the *process* of developing a successful Inclusionary Housing policy or ordinance, the Institute for Local Self Government compiled the *California Inclusionary Housing Reader* in 2003. Based upon the varied experiences of many cities and counties in California, this document details specific suggestions for local officials considering Inclusionary Housing strategies¹². Their suggestions are listed in full with additional Planning Division comments in italics.

- 1) **Involve Developers.** Include both for-profit and nonprofit developers in discussions about program design. *Many cities and counties have established citizens' advisory groups and ad-hoc committees to provide recommendations on Inclusionary Housing and a broad spectrum of housing programs to decision makers.*
- 2) **Consider Land Donation.** Land donation may be considered as a preferred alternative to in-lieu fees. The developer donates (or sells at a considerably reduced price) a portion of the development site to the locality or a nonprofit housing developer. A nonprofit developer then develops the donated land, using their expertise and resources for constructing and managing affordable housing.
- 3) **Consider Increasing Densities.** Increased densities and other land use changes to enhance residential development capacity may accompany inclusionary zoning requirements. This will help offset the financial impact of inclusionary requirements for the developer. *Density increases allow the construction cost of affordable units to be spread over a greater number of market rate units. This makes the project more*

¹² Taken from the *California Inclusionary Reader*. Institute for Local Self Government. (2003) pp 17-18.

economically feasible and minimizes the impact on the price of market rate homes in the same development. Density increases can be considered as part of a General Plan Amendment/Zone Change request or in conjunction with a locally enacted density bonus ordinance.

- 4) **Set Reasonable Requirements.** Affordable housing requirements should be relatively modest (10-15 percent) if there are not development incentives such as density bonuses and fee waivers. *To be reasonable and equitable, the benefits and potential limitations of each policy detail needs to be considered, e.g., size of inclusionary percentage, targeted income categories, incentives, etc.*
- 5) **Vary Requirements by Area.** Inclusionary requirements may vary by area or district. For example, infill housing in downtown areas may have a lower inclusionary requirement because infill housing is desired and/or significant affordable housing may already exist downtown. *The County of Santa Barbara tiers in-lieu fees by subareas that include Santa Maria, Santa Ynez, Lompoc, Montecito, and the South Coast. The Board of Supervisors is now considering tiering the inclusionary requirement further by distinguishing between types of affordable housing to be provided in the project. Since government subsidies for moderate or workforce housing (120-200% of area median income) are nearly nonexistent, the in-lieu fees for these units are set higher than those for lower income inclusionary units. For example, in the South Coast area the very low and low income fee per affordable unit would be set at \$110,000. The moderate and workforce housing fee would be \$422,700 per unit.*
- 6) **Examine the Use of In-Lieu Fees.** In-lieu fees offer an alternative when the actual construction of affordable units may not be feasible. In-lieu fees should not be completely optional for the developer if the desire is to scatter low and moderate income units throughout the community. When used, the fee should be sufficient to facilitate the development of the required affordable units at another nearby location. *To remain effective, in-lieu fees need to stay in tune with local housing market changes and may require regular updating. Santa Cruz County manages this by tying the in-lieu fee to a percentage of the average sales price for market rate homes.*
- 7) **Establish Appropriate In-lieu Fee Levels.** In-lieu fees, if too low, may not generate enough funding to construct housing units. Also, low in-lieu fees are a major disincentive to construct the affordable housing on-site. *In lieu fees can be applied in a number of ways. Typically, they are charged on a per unit basis and reflect the difference between the fair market value of a unit and the below-market price. Some communities exempt projects of fewer than 10 units from payment of in-lieu fees altogether, others simply prorate the requirement for smaller projects.*
- 8) **Establish Design Guidelines.** Ensure that inclusionary units are integrated within the development so as not to be distinguishable from the market rate units. *One relatively simple method of accomplishing this in a single-family home project is to create a duplex that houses two affordable units. From the street, the only demonstrable difference would be the presence of two entrances and possible separate garages for the home. Architectural congruity could be ensured by use of the same building materials and identical design and architectural treatments on the exterior of the building, but different and smaller floor plans on the interior.*
- 9) **Establish Criteria for Future Residents.** Criteria need to be established to screen the applicants for the low-cost units because the demand from eligible buyers and renters is certain to exceed supply. *One method used by many communities is to either restrict affordable units to residents/workers who meet a minimum residency requirement or to assign a higher priority to families that live and/or work in the community.*

- 10) **Establish Resale Controls.** Resale restrictions assure that the units remain affordable after the unit is sold or rented to new occupants. This requires on-going management and administration. Some cities and counties have contracted with local housing authorities to run this staff intensive activity. *Projects are typically subject to regulatory agreements that carefully define what will be delivered, when and to whom, as well as defining long term affordability controls.*¹³ *Estimates of administrative costs for inclusionary programs vary from \$40,000-110,000 per year among case study cities. In both Sunnyvale and Palo Alto, where the programs have a long history, a full time employee is required to manage the program. Palo Alto contracts with a non-profit housing organization to monitor units and qualify households. However, highly detailed deed restrictions may cut down on some administrative costs.*

7.2 Policy Considerations

Beyond the nuts and bolts of defining income categories, set asides, and incentives, there are several key policy considerations intrinsic to crafting a successful Inclusionary Housing program.

Apply to Legislative Amendments vs. Apply to all Discretionary Development

The first question to be answered is whether Inclusionary Housing requirements would apply solely to legislative approvals (General Plan amendments and zone changes) where the developer is receiving a benefit or entitlement not already affixed to the property or whether Inclusionary Housing requirements would apply to all discretionary development within the county?

For example, a General Plan amendment might amend the existing designation from Existing Community, Rural Exclusive 1-ac to Existing Community, Residential Planned Development 11 du/ac and a zone change might entail a change from RA-10ac to RA-2ac. Many cities apply Inclusionary Housing requirements to specific development approvals (e.g., planned unit developments, conditional use permits, etc.) and most exempt certain types of development such as assisted living facilities and small in-fill projects. Typically, Inclusionary Housing ordinances apply across-the-board to discretionary residential development in a community rather than to legislative approvals. Some legal sources, however, have advocated higher set aside rates for legislative approvals as opposed to adjudicative approvals (e.g., Planned Development Permits and Tract Maps).

Contribution of Employment Generating Land Uses

Another preliminary policy question would be whether significant employment generating uses should also contribute to the provision of affordable housing in the County through a housing impact mitigation fee? Like in-lieu fees from residential developers, these fees would be collected and placed in a Housing Trust Fund.

General Plan policy 3.4.2-2 and the County's Initial Study Assessment guidelines require discretionary projects that generate 30 or more new employees be evaluated for the project's demand for housing.

Planning Division staff believes that a programmatic approach to addressing the increased demand for housing caused by employment generating land uses is preferable to project-by-

¹³ *Inclusionary Zoning: Program Design Considerations.* The Enterprise Foundation. P. 6.

project review and EIRs. As currently envisioned, this programmatic approach would take the form of a mitigation fee for a proportional share of the housing impact of employment generating projects. In conjunction with an Inclusionary Housing ordinance or policy, a housing impact mitigation fee may be a practical option. As a result, individual projects would no longer be required to prepare a housing study and corresponding EIR to address indirect impacts to housing. Rather, a countywide supplemental EIR would be prepared by staff in conjunction with adoption of an implementing ordinance.

As of March of 2008, one project application had been submitted that exceeds this threshold. Houweling Nursery has applied for two 20-acre greenhouses that would generate 186 new agricultural jobs, and an Environmental Impact Report (EIR) has been prepared. Additional discretionary projects generating 30 or more new jobs are anticipated to be filed in the future.

Policy vs. Ordinance

Finally, there is the question of whether to adopt a General Plan policy or an actual ordinance. Adoption of a formal ordinance makes specific requirements more permanent and consistent in their application than would be possible with a General Plan policy, but both have been used successfully by other jurisdictions. The Legal Review section of this report provides more detail on the legal implications of each method.

In short, an ordinance that applies a universal standard has a lower threshold to achieve in the courts than a policy applied on a case-by-case basis. An ordinance does not require a “nexus” study to prove direct correlation, whereas a General Plan policy that applies the equivalent of an impact fee on new residential projects does. On the flip side, however, a General Plan policy or housing program may allow more leeway for individual developers to negotiate requirements and create a more dynamic process that is open to changing conditions. Many jurisdictions have chosen to incorporate a policy statement in their General Plan with an Inclusionary Housing ordinance to follow. However, some jurisdictions, like Palo Alto and San Francisco have added an Inclusionary Housing program into their General Plans with a less prescribed set of requirements that can be negotiated.

8. Policy Options

As the forecasted demand for affordable housing surges, the Board is faced with three potential policy options in regard to Inclusionary Housing:

- 1) Maintain current General Plan housing policies, which do not call for Inclusionary Housing programs except in the Piru Redevelopment Area;
- 2) Adopt a countywide Inclusionary Housing policy for legislative acts, (i.e., General Plan amendments and zone changes); or
- 3) Adopt a countywide Inclusionary Housing ordinance for discretionary residential projects.

- 1. Maintain Current General Plan Housing Policies.** The first option is to rely on current General Plan policies and programs to meet the future demand for housing and not adopt a formal Inclusionary Housing policy. Under this option the Board of Supervisors could continue to include case-by-case Inclusionary Housing requirements on individual residential projects that require General Plan Amendments.

Maintaining current policies would also include maintenance of existing practices within both the Piru Redevelopment Agency and the Piru Expansion Area. State Redevelopment

law requires that private residential projects in a RDA set aside at least 15% of the new and rehabilitated housing units for low or moderate income households; 40% of these dwelling units must be affordable to very low income households (6% of total). Covenants or restrictions are required to maintain affordability for a period of 45-55 years, based on tenure. In 2005, the Board directed staff to apply these same set-aside requirements within the Piru Expansion Area.

Supporters of this option might argue that adoption of an Inclusionary Housing policy is not an appropriate action by a local government or that no policy change is needed at this time because: 1) the County achieved a reasonable proportion of its regional housing objectives for lower- and moderate-income housing in the last planning cycle without additional regulation and 2) if specific housing projects are approved, the County will have sufficient vacant or under utilized land to meet its housing needs for the lower- and moderate-income categories until the year 2014.

The problems associated with case-by-case Inclusionary Housing requirements on residential projects that require General Plan Amendments are: 1) there is a lack of consistent direction by the Board of Supervisors on GPA screening applications; 2) lack of clear expectations of staff or applicants; and 3) absent an adopted policy, the County can't impose an inclusionary requirement unless the applicant agrees.

2. **Adopt Inclusionary Housing Policy for Legislative Acts.** Selecting this option assumes that projecting past housing trends into the future may not be a reliable method for estimating future housing production, given the subtleties of the local housing market and the constraints on the supply of vacant, residentially zoned land in the unincorporated area of the County. Thus, the County may come close to meeting state mandated housing goals through the next Housing Element planning period, but these numbers may not be sustained into the future. Thus, more proactive policies to encourage the supply of affordable housing could be warranted. A countywide Inclusionary Housing Policy for legislative approvals, (e.g., General Plan Amendments and zone changes) is a legitimate and readily available tool to use for this purpose. It would provide direction for projects already conditioned to incorporate affordable housing into their project design and create a fair playing field for future residential developers.
3. **Adopt Inclusionary Housing Ordinance for Discretionary Projects.** As stated previously, ordinances typically apply across-the-board to discretionary residential development in a community rather than to legislative approvals. Legal precedent suggests that adoption and implementation of a formal ordinance provides better protection from legal challenge than a policy that is applied on a case-by-case basis to individual projects.

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